

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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WILBERT HOLMES,

Plaintiff,

v.

RAND BALLARD and CAPUCINE  
HOLMES,

Defendants.

Case No. 2:21-cv-00981-RFB-DJA

**ORDER**

Before the Court for consideration is the Report and Recommendation [ECF No.4] of the Honorable Daniel J. Albregts, United States Magistrate Judge, entered June 29, 2021.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). A party may file specific written objections to the findings and recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Local Rule IB 3-2(a). When written objections have been filed, the district court is required to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); see also Local Rule IB 3-2(b). Where a party fails to object, however, a district court is not required to conduct “any review,” de novo or otherwise, of the report and recommendations of a magistrate judge. Thomas v. Arn, 474 U.S. 140, 149 (1985). Pursuant to Local Rule IB 3-2(a), objections were due by July 13, 2021. No objections have been filed. The Court has reviewed the record in this case and concurs with the Magistrate Judge’s recommendations.

1           **IT IS THEREFORE ORDERED** that the Report and Recommendation [ECF No. 4] is  
2       ACCEPTED and ADOPTED in full.

3           **IT IS FURTHER ORDERED** that Plaintiff's complaint is dismissed with leave to  
4       amend.

5           **IT IS FURTHER ORDERED** that if Plaintiff wishes to continue with this case, and if he  
6       can correct the deficiencies, he has until **November 26, 2021**, to file an amended complaint. If the  
7       Court adopts this Report and Recommendation, and if Plaintiff choses to amend the complaint,  
8       Plaintiff is informed that the Court cannot refer to a prior pleading (i.e., the original complaint) to  
9       make the amended complaint complete. This is because, generally, an amended complaint  
10      supersedes the original complaint. Local Rule 15-1(a) requires that an amended complaint be  
11      complete without reference to any prior pleading. Once a plaintiff file an amended complaint, the  
12      original complaint no longer serves any function in the case. Therefore, in an amended complaint,  
13      as in an original complaint, each claim and the involvement of each defendant must be sufficiently  
14      alleged.

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16           The Court Clerk is directed to mail a copy of this order to Plaintiff.

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18           DATED: October 26, 2021.



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**RICHARD F. BOULWARE, II**  
**United States District Judge**